APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,192	07/02/2003	Ranajit Pal	00711CIP	4134

35467	7590	03/29/2006		

BIOMERIEUX, INC.
PATENT DEPARTMENT
100 RODOLPHE STREET
DURHAM, NC 27712

EXAMINER
STUCKER, JEFFREY J

ART UNIT	PAPER NUMBER
1648	

DATE MAILED: 03/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<table>
<tr><td rowspan="2">Office Action Summary</td><td>Application No.</td><td colspan="2">Applicant(s)</td></tr>
<tr><td>10/612,192</td><td colspan="2">PAL ET AL.</td></tr>
<tr><td></td><td>Examiner</td><td>Art Unit</td><td></td></tr>
<tr><td></td><td>Jeffrey Stucker</td><td>1648</td><td></td></tr>
</table>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>1</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-20* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☐ All   b)☐ Some * c)☐ None of:

         1.☐ Certified copies of the priority documents have been received.

         2.☐ Certified copies of the priority documents have been received in Application No. _____.

         3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
     Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 1-7 and 15, drawn to a complex comprising gp120 covalently bound to a fragment of CD4 or equivalent, classified in Class 530, subclass 350.

II. Claims 8-10 and 14, drawn to an antibody and cell line, classified in Class 530, subclass 388.1.

III. Claims 11 and 12, drawn to a method of raising neutralizing antibodies, classified in Class 424, subclass 193.1.

IV. Claim 13, drawn to a method of detection with an antibody, classified in Class 435, subclass 5.

V. Claims 16-19, drawn to a complex with gp120 covalently bound to a CD4 equivalent, classified in Class 530, subclass 350.

VI. Claim 20, drawn to a method of raising neutralizing antibodies, classified in Class 424, subclass 193.1.

The inventions are distinct, each from the other because of the following reasons:

Inventions (I, II, and V) and (III, IV, and VI) are related as products and processes of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be

practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case, neutralizing antibodies can be raised with other HIV envelope antigens and other antibodies can be used to detect HIV infection.

The product inventions, I, II, and V, are directed to patentably distinct compositions. The composition of inventions I and V are different because V has different components. Inventions I and V are covalently bound viral and cellular protein complexes and II is directed to an antibody.

The method inventions, III, IV, and VI, are directed to patentably distinct methods. The method of detection is distinct from the methods of raising neutralizing antibodies because each has different purposes and steps to perform the claimed methods.

Because these inventions are distinct for the reasons given above and have acquired separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17-(h).

Papers related this application may be submitted to Group 1600 by facsimile transmission. Papers should be faxed to Group 1600 via the PTO Fax Center. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG (November 15, 1989).

The Group 1600 Official Fax number is: (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Tech Center representative whose telephone number is (571)-272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on

access to the Private PAIR system, contact the Electronic
Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier
communications from the examiner should be directed to Jeffrey
Stucker whose telephone number is (571)-272-0911. The examiner
can normally be reached Monday to Thursday from 7:00am-3:30.

If attempts to reach the examiner by telephone are
unsuccessful, the examiner's supervisor, James Housel, can be
reached on (571)-272-0902.

JEFFREY STUCKER
PRIMARY EXAMINER